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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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11 JERRY VAUGHN and THERESA)
12 TRAVERS,) Case No. C03-5725 (SC)
13 Plaintiffs,)
14 v.)
15 BAY ENVIRONMENTAL MANAGEMENT)
16 INC., CAESAR NUTI, DENNIS VARNI, FSC)
17 SECURITIES CORPORATION, and)
18 JERROLD N. WEINBERG)
19 Defendants.)
20 _____)
21 FSC SECURITIES CORPORATION and)
22 JERROLD N. WEINBERG,)
23 Cross-Claimants,)
24 v.)
25 BAY ENVIRONMENTAL MANAGEMENT)
INC., ESTATE OF PINA J. BARBIERI,)
CAESAR NUTI, and DENNIS VARNI,)
Cross-Defendants)

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**STIPULATION AND [PROPOSED] ORDER TO PERMIT PLAINTIFFS TO FILE A SECOND AMENDED
COMPLAINT [CASE No. C03-5725 (SC)]**

WHEREAS the parties have engaged in ongoing discovery on the merits of the allegations contained in Plaintiffs' First Amended Complaint ("Complaint"); and

WHEREAS Defendants Bay Environmental Management Inc., Caesar Nuti, and Dennis Varni (“Bay Environmental Defendants”), and each of them, continue to deny any liability under the Complaint; and

WHEREAS Defendants FSC Securities Corporation and Jerrold N. Weinberg also continue to deny any liability under the Complaint, including, but not limited to denying that they are or were fiduciaries to the Plans; and

9 WHEREAS Plaintiffs Jerry Vaughn and Theresa Travers (“Plaintiffs”) have determined,
10 based upon Bay Environmental Defendants’ discovery responses served on August 21, 2009, that
11 other persons should be identified as defendants and therefore removed from the class; and

12 WHEREAS naming additional defendants at this early stage of discovery in the case will
13 not prejudice Defendants; and

WHEREAS the Bay Environmental Defendants and Defendants FSC Securities Corp. and
Jerrold N. Weinberg consent under Fed. R. Civ. P. 15(a) to permit Plaintiffs to file the Second
Amended Complaint attached hereto as Exhibit A; and

WHEREAS the Bay Environmental Defendants and Defendants FSC Securities Corp. and
Jerrold N. Weinberg have agreed to waive notice and service of the Second Amended Complaint;
and

20 NOW, THEREFORE, the parties to this action, by and through their undersigned
21 attorneys, hereby stipulate and respectfully request that the Court order that Plaintiffs file a
22 Second Amended Complaint in the form of the document attached hereto as Exhibit A.

Respectfully Submitted,

LEWIS, FEINBERG, LEE,
RENAKER & JACKSON, P.C.

By: /s/
Lindsay Nako
Attorneys for Plaintiffs JERRY VAUGHN
and THERESA TRAVERS

1 Dated: August 27, 2009

MORGAN LEWIS & BOCKIUS LLP

2 By /s/
3 D. Ward Kallstrom
4 Nicole A. Diller
5 Angel T. Lin
6 Attorneys for Defendants
7 BAY ENVIRONMENTAL
8 MANAGEMENT INC., CAESAR NUTI,
9 ESTATE OF PINA J. BARBIERI and
10 DENNIS VARNI

11 Dated: August 27, 2009

12 WILSON, ELSER, MOSKOWITZ,
13 EDELMAN & DICKER LLP

14 By /s/
15 Bernard Gehlhar
16 Emily Wood
17 Attorneys for Co-Defendants
18 FSC SECURITIES CORPORATION and
19 JERROLD N. WEINBERG

20 **[PROPOSED] ORDER**

21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

22 Dated: September 1, 2009



ATTESTATION

I hereby attest that for all conformed signatures indicated by a /s/, the signatory has concurred in the filing of this document.

Dated: August 28, 2009

By: /s/
Teresa S. Renaker

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